

TENNESSEE REGULATORY AUTHORITY

Sara Kyle, Chairman
Lynn Greer, Director
Melvin Malone, Director



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

NOTICE OF ISSUES FOR BRIEFING

IN RE: **Application of Memphis Networkx, LLC for a Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunication Services and Joint Petition of Memphis Light Gas and Water Division, A Division of the City of Memphis, Tennessee ("MLGW") and A&L Networkx-Tennessee, LLC ("A&L") for Approval of Agreement Between MLGW and A&L Regarding Joint Ownership of Memphis Networkx, LLC.**

DOCKET NO.: **99-00909**

DATE: **October 25, 2000**

On October 19, 2000, the Authority directed the parties to file post-hearing briefs thirty (30) days from the close of the Hearing and reserved the right to send out a notice listing specific issues for briefing on or before Wednesday, October 25, 2000. In accordance therewith, the Authority requests, in addition to briefing the nine (9) issues previously agreed to by the parties, that the parties brief the following issues:

1. a. Do Tenn. Code Ann. § 65-25-231(a)(2) and § 7-52-402 apply to the Telecommunications Division of the Electric Division of Memphis Light Gas & Water?
- b. Do Tenn. Code Ann. § 65-25-231(a)(2), § 7-52-402, or any other statute permit the equity investment by the Telecommunications Division of the Electric Division of Memphis Light Gas & Water to Memphis Networks, LLC?
2. In briefing Issue 2 of the parties' nine issues, identify and explain the criteria the Authority should use when approving an operating agreement under Tenn. Code Ann. § 7-52-103(d).
3. a. Was Memphis Light, Gas & Water required to issue a Request for Proposal?
- b. What procedural requirements must Memphis Light, Gas & Water follow when proceeding through the Request for Proposal process?

- c. Assuming Memphis Light, Gas & Water was not required to issue a Request for Proposal, was it bound to follow the procedural requirements discussed in the answer to b. once it chose to issue a Request for Proposal?
- 4. a. Does Tenn. Code Ann. § 65-4-201 apply to
 - i. Aptus Networks, Inc. or any of its affiliates or subsidiaries,
 - ii. Memphis Light, Gas & Water, or
 - iii. Memphis Networkx, LLC.?
- b. Interpret the phrase “establish or begin the construction of, or operate any line, plant, or system, or route” as used in Tenn. Code Ann. § 65-4-201(a) and explain how the phrase is relevant to the application of Memphis Networkx, LLC.

In briefing the issues in this case, provide case law and statutory support for all arguments and, where necessary, provide specific references to the record in this docket.

FOR THE TENNESSEE REGULATORY AUTHORITY



K. David Waddell, Executive Secretary

cc: Parties of Record

original in docket file